

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of Applications of	)	
	)	
GREG NEWBERRY D/B/A PAHSIMEROI	)	FCC File Nos. 0000614503, 0000614541,
AGRICULTURE	)	0000614479, 0000590113
	)	
To Modify 800 MHz Radio Stations	)	
	)	
And	)	
	)	
CHEVAS PEAK ASSOCIATES LLC	)	
	)	FCC File No. 0000590077
To Operate an 800 MHz Business Radio Pool	)	
Station	)	

**ORDER**

**Adopted: January 13, 2003**

**Released: January 16, 2003**

By the Deputy Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. On December 3, 2001, Gem State Communications, Inc. (Gem), filed an Informal Petition to Deny (Petition) the four above-captioned applications of Greg Newberry d/b/a Pahsimeroi Agriculture (Newberry) and the one above-captioned application of Chevas Peak Associated LLC (Chevas Peak).<sup>1</sup> Subsequently, however, Newberry cancelled each of the four licenses that were the subject of the four modification applications, which were in turn dismissed.<sup>2</sup> Additionally, although the Licensing and Technical Analysis Branch (Branch) of the Public Safety and Private Wireless Division, granted the above-captioned Chevas Peak application before Gem filed its Petition, Chevas Peak subsequently requested cancellation of the authorization in question.<sup>3</sup>

<sup>1</sup> Gem State Communications, Inc., Informal Petition to Deny (filed Dec. 3, 2001) (Petition). *See also* Greg Newberry, Opposition to Informal Petition to Deny (filed Dec. 10, 2001) and Gem State Communications, Inc., Reply (filed Jan. 4, 2002). Gem filed the Petition under 47 C.F.R. § 1.41 (Informal requests for Commission action). We note that none of the captioned applications remain pending; for convenient reference only, we are using the caption that Gem styled for its Petition.

<sup>2</sup> File Nos. 0000614503, 0000590113, 0000614479, and 0000614541 sought to modify the licenses for Stations WNHD723, WNHD749, WNHD722, and WNHD754, respectively and these applications were dismissed on April 19, 2002, March 6, 2002, Jan. 29, 2002, and June 5, 2002, respectively. *See, e.g.*, File No. 0000614541, Automated Letter Ref. No. 1389051, dated April 19, 2002 (“Your cancellation request has been granted; therefore, this application is dismissed and no further action will be taken.”). *See also* File No. 0000614479, Automated Letter Ref. No. 1263419, dated Jan. 29, 2001 (“Rule 90.179 indicates that above 800 MHz only SMR, PCP, and LMS licensees are allowed to share on a for profit basis. Your request to provide for profit service is inconsistent with this Rule. Further you are not eligible in the Industrial/Land Transpiration Pool. Therefore the application is defective, and hereby dismissed.”).

<sup>3</sup> See File No. 0000590077 (filed Sept. 12, 2001, and granted Nov. 30, 2001, under call sign WPTR692. On September 3, 2002, the Branch sent Chevas Peak a Construction/Coverage Reminder Letter for Station WPTR692; thereafter, on September 12, 2002, Chevas Peak requested cancellation of this license, which the Branch granted on Sept. 13, 2002.

2. Based on the record before us, we find that the Petition is moot and we dismiss it. ACCORDINGLY, IT IS ORDERED that pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41, that the Informal Petition to Deny filed by Gem State Communications, Inc., on December 3, 2001, IS DISMISSED.

3. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Ramona E. Melson  
Deputy Chief, Public Safety and Private Wireless Division  
Wireless Telecommunications Bureau